

Statement by Senator Conrad Burns
Commerce, Science, and Transportation Hearing on Proposed
Tobacco Settlement
February 24, 1998

Thank you Mr. Chairman. At the outset of these remarks, I want to first express my appreciation to you for demonstrating leadership in asserting this committee's jurisdiction over this issue, scheduling this and other hearings on this difficult matter, and drafting legislation which is a productive starting point for Congress in our efforts to enact meaningful, historic legislation to reduce teen smoking in this country.

On June 20, 1997, a settlement was reached between the tobacco companies and most of the states' attorneys general that accomplished goals most of us would not have believed could have been reached during our lifetimes. It would substantially raise the price of cigarettes. It would provide for programs which would reduce teen smoking.

It would curtail cigarette advertising in this country. It would reimburse states for health care expenses incurred under the Medicaid program. It would take away most of the tobacco company profits and use that money to provide programs to help people quit smoking and to treat smoking related illness in the future. As a punishment for marketing tobacco products to American youth, the tobacco companies would pay \$50 billion in punitive damages.

The proposed settlement includes language that suggests that Congress allocate part of the settlement money to entities that would lose revenues when tobacco sponsorships go away like rodeos for instance. I intend to be very active in ensuring the future economic viability of these events. Furthermore, the settlement would provide reimbursement to those businesses that are likely to be harmed as a result of the settlement.

If anybody would have told me 10 years ago that Congress would be

dealing with the approval of such a settlement, I would not have believed them. The settlement reached on June 20, 1997, was a pretty tall order.

In order to get some of the benefits of the settlement, Congressional approval is necessary. The constitution doesn't allow us to take away the first amendment rights of legal entities. To get kids to stop smoking, or better yet, not to start in the first place, we need to ensure that tobacco cannot market its products as it has historically.

The tobacco settlement has become a very controversial issue. Lots of folks have testified in lots of committees about their views on this proposed settlement. Although I am not a lawyer -- and proud to say that -- I am swayed by those constitutional experts who say that Congress cannot unilaterally take away the tobacco companies free speech rights.

Our job here is to pass laws. None of them are perfect. Each one of them involves some give and take. What we are discussing here today is a proposed settlement. Give and take. That's what this is all about. That's what our jobs are about. Whether we like it or not, tobacco companies do have rights. Prior to this settlement, they hadn't paid one penny in punitive damages for any claim made against them. Prior to this settlement, they had never lost a case.

So what are they asking for in return for their giving up certain constitutional rights? What they are asking for is knowing how much money they will have to pay to achieve what we know to be the benefits of this settlement. The media has portrayed what tobacco companies want as "immunity". I personally don't believe that agreeing to pay over \$350 billion dollars to settle a case is immunity. If someone rear ends a car and causes injuries to the driver of the car, and a settlement is reached for injuries, property damage, pain and suffering - the amount of money paid isn't called immunity. It's called a settlement. No one in

this country has every been awarded \$50 billion in punitive damages by a jury. Ever! The fact that tobacco companies are willing to pay that amount after never losing a jury trial is incredible. But it isn't immunity.

I don't want to see my kids or grandkids smoking cigarettes. I don't want to see ads glorifying tobacco use. But to get to that point, we have to stop legislating by press release. We need to lower the rhetoric. We need to review the bidding - where we've been, where we are right now, and what kind of historic opportunity is available to us to really make a difference in the way our kids and grandkids view tobacco in the future.

I don't want a handful of states to get huge settlements against big tobacco and the rest of the states to get little or nothing. I want kids in Montana to get the same deal that kids in Florida, Texas, and Mississippi get. To get to that point, Congress must act. And we must act on a comprehensive bill.

I know that there are going to be provisions in such a bill that I don't like. But I do know this. I would rather be part of crafting a good faith, comprehensive bill that improves the lives of Montana's kids than spending the rest of the session bashing big tobacco and getting some limited measure that does not provide some long term strategy for reducing tobacco use among all America's kids.

I know we can work out a settlement that improves the lives of kids across our nation and in my state of Montana while protecting American jobs and preserving our nation's heritage rather than spending the rest of the session bashing big tobacco companies.

In closing, I once again want to thank the chairman for scheduling this and the other hearings we will have in the commerce committee. I want to help in the process of crafting a fair bill which future generations will call one of the greatest accomplishments of the 105th Congress.

Thank you, Mr. Chairman.